



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2018-0760; FRL-9995-85-Region 4]

Air Plan Approval; North Carolina;

Revision to Permit Term for Non-Title V Air Quality Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a State Implementation Plan (SIP) revision provided by the State of North Carolina, through the North Carolina Department of Environmental Quality, Division of Air Quality (DAQ), on January 12, 2018. The SIP revision makes changes to the State's combined construction and operating permit program for non-Title V sources. EPA is proposing to approve the revision to the North Carolina SIP because it is consistent with the Clean Air Act (CAA or Act).

DATES: This rule is effective [**Insert 30 days after date of publication in the Federal Register**].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R04-OAR-2018-0609. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly

available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division (formerly the Air, Pesticides and Toxics Management Division), U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Evan Adams of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9009. Mr. Adams can also be reached via electronic mail at adams.evan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

EPA is taking final action to approve changes to the North Carolina SIP that were provided to EPA through a letter dated January 12, 2018.¹ EPA is finalizing approval of the portions of this SIP revision that make changes to 15 North Carolina Administrative Code (NCAC) 02Q.0300 – *Construction and Operation Permits*.² These regulations set forth the State's process for issuing combined construction and operating permits. They do not apply to

¹ EPA notes that the Agency received the SIP revision on February 2, 2018.

² In the table of North Carolina regulations federally approved into the SIP at 40 CFR 52.1770(c), 15A NCAC 02Q is referred to as "Subchapter 2Q Air Quality Permits."

Title V permits issued by DAQ. *See* 15A NCAC 02Q.0301(a). The January 12, 2018, submittal requests minor typographical/administrative edits to 15 NCAC 02Q .0308. For example, the submittal fixes a grammar error in 15 NCAC 02Q .0308(b) by replacing the word “which” with the word “that” in the first sentence. In addition, the submittal changes the permit term (duration) for combined construction and operating permits from five years, or less as determined reasonable by the Director, to eight years. This permit term in Section .0308 of the rule affects only minor sources because sources subject to Title V (i.e., major sources) are subject to the separate operating permit term provisions of North Carolina’s Title V program.

In a notice of proposed rulemaking (NPRM) published on March 28, 2019 (84 FR 11695), EPA proposed to approve the aforementioned changes to 15 NCAC 02Q .0308 in the North Carolina SIP, which make typographical/administrative edits to the rule. The NPRM provides additional details regarding EPA’s action. Comments on the NPRM were due on or before April 29, 2019. EPA received no comments on the proposed action and is now taking final action to approve the above-referenced revision.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference under Subchapter 2Q, *Air Quality Permits* of the North Carolina SIP, Section .0308, entitled *Final Action on Permit Applications*, state effective January 1, 2015. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been

approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.³

III. Final Action

EPA is taking final action to approve changes to the North Carolina SIP that were provided to EPA through a letter dated January 12, 2018. Specifically, EPA is approving 15 NCAC 02Q .0308 to modify the permit term for non-title V combined construction and operating permits and make other typographical/administrative edits. These rule changes are consistent with the CAA and its implementing regulations, and will not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of the Act). *See* 42 U.S.C. 7410(l).

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

³ *See* 62 FR 27968 (May 22, 1997).

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be

filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 7, 2019.

Mary S. Walker,
Regional Administrator,
Region 4.

40 CFR part 52 is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

Subpart (II) – North Carolina

2. In § 52.1770, the table in paragraph (c)(1) is amended under Subchapter 2Q Air Quality Permits, Section .0300 Construction and Operating Permits by revising the entry for “Section .0308” to read as follows:

§ 52.1770 Identification of plan.

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(c) * * *

(1) EPA APPROVED NORTH CAROLINA REGULATIONS

State Citation	Title/subject	State effective date	EPA approval date	Explanation
**	**	*	*	*
Subchapter 2Q Air Quality Permits				
**	**	*	*	*
Section .0300 Construction and Operating Permits				
**	**	*	*	*
Section .0308	Final Action on Permit Applications	1/1/2015	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
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[FR Doc. 2019-14136 Filed: 7/2/2019 8:45 am; Publication Date: 7/3/2019]